

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EARVIN J. SMITH and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Coatesville, PA

*Docket No. 00-262; Submitted on the Record;
Issued October 23, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that his left shoulder condition was sustained in the performance of duty.

Appellant, a 58 year-old housekeeping aid, filed a claim for benefits on March 19, 1999, alleging that he twisted his left arm and shoulder while attempting to avoid a collision with a patient on March 13, 1999.

In a letter to appellant dated March 23, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional information in support of his claim, including a medical report and an opinion from a physician, supported by medical reasons, describing the history of the alleged work incident and indicating how the reported work incident caused or aggravated the claimed injury, plus a diagnosis and clinical course of treatment for the injury. The Office informed the employee that he had 30 days to submit the requested information.

In response, appellant submitted reports dated March 22, March 29 and April 12, 1999 from Dr. Vincent DiStefano, a Board-certified orthopedic surgeon. He stated his findings on examination and restricted appellant from overhead and excessive activities involving the left shoulder, but did not provide an opinion regarding whether appellant's left shoulder condition was caused or aggravated by factors of his employment.

By decision dated April 29, 1999, the Office denied appellant's claim on the grounds that he did not submit evidence sufficient to establish that the claimed condition was causally related to factors or incidents of employment.

By letter dated July 15, 1999, appellant requested reconsideration of the April 29, 1999 Office decision. In support of his claim, appellant submitted reports from Dr. DiStefano dated May 10 and 24, 1999 in which he essentially reiterated his previous findings and conclusions, three radiology reports pertaining to his left shoulder and an April 12, 1999 treatment note from

Dr. Dante A. Trovato, a specialist in orthopedic surgery, which diagnosed bilateral rotator cuff tendinitis.

By decision dated August 3, 1999, the Office denied reconsideration, finding that appellant did not submit evidence sufficient to warrant modification.

The Board finds that appellant has not met his burden of proof to establish that his alleged left shoulder condition was sustained in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

In the present case, the only medical evidence appellant submitted in support of his claim were the medical reports from Dr. DiStefano and the April 12, 1999 treatment note from Dr. Trovato. These reports contain findings on examination and brief, conclusive statements summarily indicating that appellant had bilateral rotator cuff tendinitis and a chronic left shoulder condition. However, the physicians did not provide a probative, rationalized opinion

¹ 5 U.S.C. § 8101 *et seq.*

² *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

that his left shoulder condition was caused or aggravated by factors or conditions of his federal employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁵ Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the type of evidence required to establish his claim; however, appellant failed to submit such evidence. In the instant case, none of the medical reports appellant submitted contain any rationalized medical opinion relating the cause of the alleged condition to factors of his federal employment. The reports are therefore of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.⁶ The reports did not explain the process through which factors of appellant's employment would have been competent to cause the claimed left shoulder condition.

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between his claimed condition and factors or incidents of employment, the Office properly denied appellant's claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated August 3 and April 29, 1999 are hereby affirmed.

Dated, Washington, DC
October 23, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *See id.*

⁶ *William C. Thomas*, 45 ECAB 591 (1994).